

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR DADE
COUNTY FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: 94-08273 CA (22)

FLORIDA BAR NO: 142163

HOWARD A. ENGLE, M.D., et al

Plaintiffs,

vs.

RJ REYNOLDS TOBACCO COMPANY,
et al.

Defendants.

DEPOSITION

ANDREW J. SCHINDLER

TAKEN AT THE LAW OFFICE OF:
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
1600 BB&T Financial Center Building
Conference Room 12A
200 West Second Street
Winston-Salem, North Carolina

05-11-00
10:00 O'CLOCK A.M.

Cathy Chaplin, CVR
Court Reporter

Chaplin & Associates
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Kernersville, NC 27285
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E X H I B I T S

<u>Name</u>	<u>Offered By</u>	<u>Identified</u>
(None offered)		

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STIPULATIONS

Pursuant to Notice and/or consent of the parties, the deposition hereon captioned was conducted at the time and location indicated and was conducted before Cathy Chaplin, CVR, Notary Public in and for the County of Guilford, State of North Carolina at Large.

Notice and/or defect in Notice of time, place, purpose and method of taking the deposition was waived. Formalities with regard to sealing and filing the deposition were waived, and it is stipulated that the original transcript, upon being certified by the undersigned court reporter, shall be made available for use in accordance with the applicable rules as amended.

It is stipulated that objections to questions and motions to strike answers are reserved until the testimony, or any part thereof, is offered for evidence, except that objection to the form of any question shall be noted herein at the time of the taking of the testimony.

Reading and signing of the testimony was requested prior to the filing of same for use as permitted by applicable rule(s).

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1 The witness, **ANDREW J.**
2 **SCHINDLER**, being first duly sworn to state
3 the truth, the whole truth, and nothing
4 but the truth, testified as follows:

5 (10:00 o'clock a.m.)

6 **EXAMINATION**

7 **BY MR. ROSENBLATT:**

8 Q. Please state your name and your
9 address.

10 A. My name is Andrew J. Schindler,
11 and my address is

12 **PERSONAL/CONFIDENTIAL MATERIAL REDACTED**

13 Q. What is your position with the
14 **RJ Reynolds Tobacco Company?**

15 A. I'm the chairman and CEO of RJ
16 Reynolds Tobacco Company and RJ Reynolds
17 Tobacco Holdings Company.

18 Q. What is the difference between
19 those two entities?

20 A. RJ Reynolds Tobacco Holdings is
21 the parent company of RJ Reynolds Tobacco
22 Company.

23 Q. Have you had occasion to read

1 your deposition which was taken in the
2 Engle case?

3 A. Yes, I have.

4 Q. When did you read it most
5 recently?

6 A. I would say the last time I
7 looked at it was probably a week and a
8 half, two weeks ago.

9 Q. Do you remember what you said in
10 that deposition on the subject of medical
11 causation?

12 A. Yes, I do.

13 Q. Do you stand by what you said in
14 your deposition on that subject, or is
15 there anything you would alter?

16 A. No, I stand on what I said in
17 that deposition.

18 Q. What did you say on the subject,
19 essentially?

20 A. Well, essentially, what I said
21 is that I believe people are -- that
22 cigarette smoking significantly increases
23 the risk of certain diseases, such as lung

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1 cancer, emphysema, heart disease and so
2 forth. And that that risk may cause that
3 disease in some people.

4 Q. Is cigarette smoking addictive?

5 A. You know, I believe that in the
6 every day common use of the term, as it's
7 used today in our society, that cigarettes
8 would be addictive by that definition, but
9 I do not believe that cigarettes are
10 addictive in the context of comparison of
11 heroin and cocaine and hard drug addiction
12 or alcoholism.

13 Q. What is your understanding of
14 the every day common usage or definition
15 of the word addiction?

16 A. Well, today, just in my every
17 day experience in life, people, you know,
18 whether it's in conversation with people
19 or people you see on television shows or
20 in newspaper reports, they tend to use the
21 word addiction in what I -- you know, I
22 would define in a somewhat informal or
23 somewhat more casual way than how it was

1 used, for example, when I was growing up
2 in the 50's and the 60's. In those --
3 when I was growing up, when people
4 referred to addiction back in those days,
5 it was very clear that they were referring
6 to somebody that was addicted to hard
7 drugs, heroin, morphine, or that they were
8 an alcoholic.

9 As time has evolved, the term is
10 just used in a -- what I -- I personally
11 define as a much looser, more casual way,
12 to refer to all sorts of behaviors and
13 things that people may have developed as a
14 behavior or a habit that somebody judges
15 as -- or they may judge themselves as
16 difficult to give up, and so that's my --
17 if I had to simplify that, I guess it's
18 something that somebody does that they
19 enjoy that is perceived to be difficult
20 for them to give up.

21 Q. Do you agree or disagree that
22 the following is an every day, common
23 definition of the word addiction: That is

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1 a behavior that the user, let's say, in a
2 smoking context, a smoker, who wants to
3 quit smoking, but isn't able to.

4 MR. JOHNSON: Object to the
5 form of the question. You can answer.

6 THE WITNESS: Well, I
7 believe, Mr. Rosenblatt, that if somebody
8 wants to quit smoking, that they can quit
9 smoking. And, you know, 40 some million
10 people, I believe, have demonstrated a
11 want and the ability to quit smoking.

12 Q. (Mr. Rosenblatt) Well, if you
13 believe that, don't you agree that you
14 necessarily have to believe that smoking
15 is not addictive?

16 MR. JOHNSON: Object to the
17 form of the question.

18 MR. ROSENBLATT: The whole
19 definition of addiction is, you can't quit
20 the behavior.

21 MR. JOHNSON: Object to the
22 form of the question ---

23 MS. LUTHER: --- Object to

1 the form of the question ---

2 MR. ROSENBLATT: What they
3 believe is, that anyone who wants to quit
4 smoking can, so how is such a person
5 addicted, if they can quit if they want
6 to?

7 MS. LUTHER: Stanley, hold
8 on just a second, the court reporter has a
9 question.

10 COURT REPORTER: Two or
11 three people were objecting, and he was
12 talking, and I couldn't get everybody at
13 the same time, so who objected, please?

14 MR. JOHNSON: I did.

15 COURT REPORTER: Mr.
16 Johnson and Ms. ---

17 MS. LUTHER: Luther.

18 COURT REPORTER: Luther.

19 I'm sorry. You may go ahead now.

20 THE WITNESS: Mr.

21 Rosenblatt?

22 MR. ROSENBLATT: Yeah, did
23 the court reporter get my question?

1 MS. LUTHER: Could you
2 repeat it, please?

3 MR. ROSENBLATT: Okay. I
4 think I can. Isn't your understanding of
5 the word addiction completely contrary to
6 the concept of addiction, which is that a
7 person wants to quit the behavior and
8 can't, because your belief is that any
9 smoker who wants to quit, can? How do you
10 reconcile your understanding of the term -
11 - that statement with the term addiction?

12 MR. JOHNSON: Object to the
13 form of the question.

14 THE WITNESS: I -- yeah, I
15 believe -- well, let me back up a second.
16 You know, I'm not the one that invented
17 the way the word addiction is used in
18 every day situations in our society today.
19 All I'm reflecting back to you is what I
20 observe, and I think almost anybody
21 observes, and how people use that word to
22 describe certain kinds of behaviors. I
23 have never understood that the definition

1 of addiction is something you absolutely
2 can't quit, so -- and as I said just
3 previously, that if somebody wants to, you
4 know, give up smoking, they really want
5 to, I believe they're capable of doing
6 that, if they've made that commitment and
7 that decision. So ---

8 Q. (Mr. Rosenblatt) --- It's your
9 belief that if a smoker has made a
10 sufficient commitment and is sufficiently
11 motivated, 100 percent of smokers can
12 quit?

13 A. Yes. I think if 100 percent of
14 smokers made a commitment that they wanted
15 to quit smoking, then 100 percent of
16 smokers would -- that acted upon that,
17 would give up smoking.

18 Q. Who is in the room with you
19 besides Mr. Johnson, just so it will be
20 clear in my mind. I know two associates
21 from my office are there, and I believe I
22 heard Kelly Luther's voice.

23 MS. LUTHER: Stanley, I

1 think it might be easier just to give our
2 appearances.

3 THE WITNESS: Yeah, let
4 everybody tell you who's here. Okay?

5 MR. ROSENBLATT: That's
6 fine.

7 MR. JOHNSON: Jim Johnson
8 on behalf of Reynolds.

9 MR. BLIXT: Charles Blixt
10 on behalf of Reynolds.

11 MR. WEBER: Bob Weber on
12 behalf of Reynolds.

13 MR. DONAHUE: Dan Donahue
14 on behalf of Reynolds.

15 MR. BASSETT: Randy Bassett
16 for Brown and Williamson Tobacco
17 Corporation.

18 MR. NEWSOM: Jim Newsom on
19 behalf of Lorillard.

20 MS. LUTHER: Kelly Luther.

21 MR. MOSS: John Moss on
22 behalf of Philip Morris.

23 MS. MIA MARTIN: Mia

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1 Martin.

2 MS. PERDITA MARTIN:

3 Perdita Martin.

4 THE WITNESS: That's it.

5 Q. (Mr. Rosenblatt) Okay. Mr.
6 Schindler, are you coming to Miami to
7 testify live in front of the jury in the
8 punitive damages phase of this case?

9 A. That is the current plan.

10 Q. And have you cleared your
11 schedule to be available to testify?

12 A. Well, I don't know -- at least
13 no one has told me when that -- precisely
14 that date would be, but the current plan
15 is to be there, and hopefully there will
16 be some lead time on knowing what the date
17 would be, and obviously the intent would
18 be to get the calendar cleared to be able
19 to be there.

20 Q. Okay. Why did you voluntarily
21 agree to obligate your company to pay to
22 the master settlement agreement, where you
23 and the other tobacco companies agreed,

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1 without a verdict, without a case going to
2 verdict, without the appellate process, to
3 pay \$246 billion over a period of years?

4 MR. JOHNSON: Object to the
5 form of the question.

6 THE WITNESS: The master
7 settlement agreement was agreed to after,
8 you know, a long process that started in -
9 I guess it really started in the spring
10 of 1997, when the initial global
11 settlement was initiated in terms of those
12 discussions, and then evolving to the
13 master settlement agreement that was
14 negotiated -- what, November -- or
15 finalized in November of '98. The reason
16 the company agreed to do it was the
17 situation. You know, you're sitting there
18 with -- at that time, as I recall, the
19 potential for nine or ten or eleven of
20 these suits being tried within a twelve or
21 a fourteen month period. You know, a very
22 difficult if -- at least in my opinion, if
23 not impossible, if nothing else,

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1 logistical situation to be confronted
2 with, and on top of that, it's with, you
3 know, the states themselves, and so out of
4 that whole process, you know, a decision
5 was made that the best thing to do would
6 be to resolve these cases through some
7 settlement.

8 Q. (Mr. Rosenblatt) Did you think
9 you would lose those cases in front of a
10 jury?

11 MR. JOHNSON: Object to the
12 form of the question.

13 MR. ROSENBLATT: Did that
14 go into your decision to agree to enter
15 into the settlement?

16 THE WITNESS: Let me
17 clarify something here, so that we're
18 perfectly clear. I was not the one to
19 negotiate the settlement. All right. I
20 was not the one in control of that
21 process. That was done by RJR-Nabisco, at
22 the time. Obviously, I was aware of what
23 was going on, and informed of what was

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Andrew J. Schindler

Pa

1 going on, but I was not sitting there with
2 the accountability to make that final
3 decision, nor did I have anybody
4 representing me, so to speak, as the
5 tobacco company, you know, at that table.
6 Okay?

7 MR. ROSENBLATT: Yeah.

8 THE WITNESS: And I think -
9 you know, I think it's important to
10 understand that. Now that I've set the
11 stage for that, I have forgotten what the
12 question was, if you could please repeat
13 it. Sorry about that.

14 Q. (Mr. Rosenblatt) That's all
15 right. I think the question was, as part
16 of what went into the equation for the
17 decision to agree to the settlement was,
18 did you think you would lose the cases,
19 the attorney general cases, in front of a
20 jury?

21 A. Okay. With that background I
22 just gave you, from my point of view, as
23 near as I can recollect at the time, that

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1 was not where my perspective was. It --
2 to me, it had -- I mean, you always,
3 obviously in any situation and one as
4 uncertain as the nature of these cases
5 were, there's always that theoretical
6 possibility that you could lose. There's
7 also that theoretical possibility that you
8 could win them all.

9 I think most significant to me,
10 even though I wasn't the one absolutely
11 sitting here and making a decision about
12 this, was there was just this fundamental,
13 almost gun to your head reality of case
14 after case after case after case, in a
15 manner that just from a logistical
16 standpoint would have been extremely
17 difficult to prepare for and effectively
18 defend in a courtroom.

19 Had those cases been spread out
20 in such a way that you might encounter one
21 of them every 24 months or so, you know, I
22 don't know that if -- if that would have
23 changed my opinion, but I'm saying that in

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1 a qualified way, because I was not the one
2 sitting there with the accountability to
3 make that decision. All right? But
4 certainly the logistics of -- the
5 realistic logistics of all that -- at
6 least in my mind, had some bearing on the
7 situation.

8 Q. (Mr. Rosenblatt) Who was the
9 lead negotiator for RJR-Nabisco, in terms
10 of the master settlement agreement?

11 A. This is speculative on my part,
12 because you're being very precise about
13 lead negotiator. As I recall, the lawyers
14 that were the most involved outside, were
15 Arthur Golden and Scott Weiss from Davis
16 Polk and then there was Bill Rosoff, who
17 was the general counsel of RJR-Nabisco.

18 Q. Well, I mean other than the
19 lawyers, who was the -- what was your
20 understanding as to who Golden and the
21 other lawyers were reporting to and
22 receiving their directions from?

23 A. Oh, well, they reported to Steve

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1 Goldstone.

2 Q. Okay. Was the situation such
3 that once Steve Goldstone and RJR-Nabisco
4 made a decision to enter into the master
5 settlement agreement, did you agree or did
6 you have to agree?

7 MR. JOHNSON: Object to the
8 form.

9 THE WITNESS: Well, I
10 agreed and we, you know, formally agreed,
11 because the Tobacco Company Board --
12 remember we were an operating company at
13 that time, you know, signed the agreement.

14 Q. (Mr. Rosenblatt) So, I mean,
15 theoretically, if you had opposed the
16 agreement, they could -- are you telling
17 me they could have gone ahead and signed
18 the agreement without your also agreeing?

19 MR. JOHNSON: Object to the
20 form. It calls for a legal conclusion.

21 MR. ROSENBLATT: I'm
22 calling for a very factual, as far as you
23 know.

1 THE WITNESS: All right. I

2 ---

3 MR. ROSENBLATT: --- I mean
4 as a practical matter, would it have
5 mattered if you had objected to the
6 agreement, or is it your understanding it
7 would have gone ahead anyway?

8 THE WITNESS: I ---

9 MR. JOHNSON: --- Object to
10 form.

11 THE WITNESS: I don't know.
12 I mean, I'm not a lawyer, and I can't
13 answer that. I personally agreed with
14 going ahead with the master settlement
15 agreement. Now, that I can obviously
16 vouch for. The legal question you're
17 asking is -- I have no idea, but I
18 personally agreed, so that wasn't an
19 issue, Mr. Rosenblatt.

20 Q. (Mr. Rosenblatt) Earlier you
21 referred to the global -- the global
22 settlement, which I think you said was
23 kind of like the precursor or at least the

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1 background of the master settlement

2 agreement with the states.

3 A. Yes.

4 Q. What was the global settlement?

5 A. Well, that was -- you know, the
6 process, as I recall, started in April of
7 '97, and then by June of '97, a settlement
8 agreement was signed by all the parties
9 that were at that table, and then the
10 process from there was to have Congress in
11 Washington, you know, in fact legislate
12 that agreement. That's in essence what
13 the agreement was.

14 Q. Okay. Is it accurate to say
15 that in terms of the global settlement
16 agreement, there was in fact an agreement
17 between the parties, but in order for that
18 agreement to be effectuated, you needed a
19 congressional enactment and that
20 congressional enactment was not
21 forthcoming. But had it been forthcoming,
22 then the deal would have been finalized at
23 the global level. Is that correct?

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1 MR. JOHNSON: Object to the
2 form.

3 THE WITNESS: Yeah, that's
4 the process that seemed to be in place,
5 you know, at the time of the agreement.

6 Q. (Mr. Rosenblatt) Now, in the
7 global settlement agreement, the tobacco
8 companies obligated themselves to pay the
9 total sum of \$368 billion over a period of
10 years. Is that correct?

11 A. You know, I don't -- I will
12 assume that's correct. I mean, I don't
13 remember the exact number.

14 Q. Give or take a couple of
15 billion.

16 A. I just don't remember the exact
17 number.

18 Q. Okay. Whatever the exact number
19 was, is it fair to say that RJR-Nabisco
20 and RJ Reynolds Tobacco Company calculated
21 that that agreement would in no way force
22 them into bankruptcy? In other words,
23 that they would be able to meet their

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1 obligations under the global settlement
2 agreement?

3 MR. JOHNSON: Object to the
4 form of the question.

5 THE WITNESS: Again, I just
6 -- you know, for the record here, and for
7 your own insight, I was not -- nor any of
8 my folks, party to that negotiation. All
9 right? I found out about, you know, the
10 final settlement probably not much sooner
11 than the press did, in terms of its
12 specifics and amounts of money and that
13 type of thing. So, the fact that it was
14 agreed to by the parties that negotiated,
15 I can only assume that they were assuming
16 they weren't heading into Chapter Eleven,
17 but I have -- or into bankruptcy, but I
18 have no knowledge of what kind of analysis
19 they did regarding that. You would have
20 to assume that they thought it was do-
21 able.

22 Q. (Mr. Rosenblatt) Right. Yeah,
23 I mean, as a rational businessman, you

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1 would not expect parties to enter into an
2 agreement that they anticipated would
3 throw them into bankruptcy.

4 MR. JOHNSON: Object to the
5 form.

6 MR. ROSENBLATT: Correct?

7 THE WITNESS: I would
8 assume that you wouldn't knowingly enter
9 into something that you thought would
10 throw you into bankruptcy.

11 Q. (Mr. Rosenblatt) And obviously
12 the same would apply to the \$246 billion
13 agreement with the states.

14 MR. JOHNSON: Object to the
15 form.

16 MR. ROSENBLATT: That
17 entering into that agreement and
18 obligating yourselves to pay a portion of
19 the \$246 billion, you either know or would
20 assume would not throw any of the Reynolds
21 companies into bankruptcy. Correct?

22 THE WITNESS: Yes, at the
23 point at which the settlement agreement

1 was agreed to, obviously, we assumed that
2 we would not be thrown into bankruptcy at
3 that point in time.

4 Q. (Mr. Rosenblatt) Has RJ
5 Reynolds Tobacco Company sold its
6 international operations?

7 A. RJR-Nabisco sold the
8 international tobacco operations. The RJ
9 Reynolds Tobacco Company did not sell the
10 international tobacco operations. They
11 were a sister operating company of ours.
12 The transaction that sold them was
13 facilitated, initiated, controlled by RJR-
14 Nabisco.

15 Q. What did the international
16 operations that were sold consist of, to
17 the best of your knowledge?

18 A. Well, it consisted of all of the
19 -- you know, international tobacco company
20 operations. You know, that's what was
21 sold. And the acquirer, Japan Tobacco,
22 obviously, when they acquired the
23 international tobacco company, RJR

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1 International Tobacco Company, they
2 acquired the rights to market trademarks
3 that we have here in the US, in all
4 countries outside of the United States,
5 Winston, Salem, Camel, Dural, and other
6 trademarks.

7 Q. So does Nabisco or any Reynolds
8 entity have any international tobacco
9 operations at the present time, or is it
10 all domestic within the United States?

11 A. You said Nabisco. I -- you
12 know, we don't have anything to do with
13 Nabisco. Reynolds Tobacco Holdings and
14 Reynolds Tobacco Company does not have any
15 international tobacco operations. We --
16 in the transaction of that sale, we picked
17 up accountability or ownership, if you
18 will, I guess, of Puerto Rican tobacco
19 business, which had been reporting to
20 international, but because they are, you
21 know, not a state but a part of the --
22 they became part of the master settlement
23 agreement. So Puerto Rico became part of

1 our accountability, but I would not
2 consider them international in that sense.
3 So all of our operations in terms of
4 assets and business that we own are
5 domestic.

6 Q. Are you aware of a recent Wall
7 Street Journal article which appeared
8 which said that the tobacco company was
9 considering purchasing Nabisco?

10 A. I'm aware of that article.

11 Q. Is the article accurate?

12 MR. JOHNSON: We will not
13 be answering any questions on that subject
14 during this deposition.

15 MR. ROSENBLATT: You're
16 instructing the witness not to answer?

17 MR. JOHNSON: That's
18 correct.

19 MR. ROSENBLATT: On what
20 grounds?

21 MR. JOHNSON: We won't be
22 answering any questions on this subject on
23 grounds of confidentiality, privilege,

1 relevance, and not calculated to lead to
2 the discovery of any admissible evidence.
3 There are also some SEC concerns that we
4 have.

5 Q. (Mr. Rosenblatt) Let's get at
6 the subject of your testimony in Miami,
7 Mr. Schindler.

8 A. Yeah, frankly, Mr. Rosenblatt,
9 I've not really sat down with my legal
10 counsel and formally decided that or
11 established that. That's yet to be done.

12 Q. Well, what I've been hearing in
13 the courtroom from your lawyers is that
14 the testimony that's going to come from
15 the CEO's of the tobacco companies and
16 others, is that you're a changed company,
17 so in that area, tell me if you agree that
18 you're a changed company from what you had
19 been previously, tell me about those
20 changes.

21 MR. JOHNSON: Object to the
22 form.

23 THE WITNESS: Well, as you

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1 know, I've not been in the courtroom, and
2 as I just told you, I have not settled
3 with legal counsel what I will be
4 testifying to, or, you know, the theme of
5 that testimony.

6 Q. (Mr. Rosenblatt) Yeah, I heard
7 you say that. Now I'm asking you a
8 completely different question,
9 irrespective of what you have or have not
10 discussed with counsel. I'm simply asking
11 you if there have been changes made in the
12 way your tobacco company operates and
13 behaves in the last couple of years, tell
14 me about those changes.

15 A. Well, there are certainly some
16 significant changes as a result of the
17 master settlement agreement. A host and
18 variety of marketing restrictions have
19 occurred as a result of that agreement.
20 Billboards went away. We are limited as
21 to one sponsorship. You know, you're not
22 allowed to have promotional items that are
23 logo-ed, such as hats and t-shirts, you

1 know, lighters, anything of that nature.

2 So beyond that, you have the
3 oversight of the attorneys general with
4 regard to our compliance with all of the
5 aspects of the master settlement
6 agreement, so I -- to me, that's a --
7 obviously, there's the -- you know,
8 financial payments, those payments of I
9 believe like \$1.5 billion into the
10 American Legacy Foundation over, I think,
11 five years or so, that they have at their
12 discretion to use to address youth smoking
13 or anti-smoking campaigns, so, you know,
14 to me, they are -- just a little bit off
15 the top of my head, some very big and
16 fundamental changes with regard to how
17 this product is allowed to be -- or will
18 be marketed in our society.

19 And as a consequence of all
20 that, it is certainly from a marketing
21 standpoint, the most looked over and
22 restricted product in terms of how you
23 market and what you're able to do with

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1 regard to marketing.

2 Q. Okay. If we exclude, for the
3 purpose of this question, any activities
4 that are mandated by the master settlement
5 agreement, putting all that aside, if I
6 were to ask you, as I am asking you now,
7 what other changes, if any, have you and
8 your company made in terms of how it
9 operates its business ---

10 MR. JOHNSON: ---

11 Objection. ---

12 MR. ROSENBLATT: --- In the
13 past two or three years?

14 MR. JOHNSON: Object to the
15 form of the question.

16 THE WITNESS: You know,
17 that's awfully broad. I mean, could you
18 be more specific?

19 MR. ROSENBLATT: No, I
20 can't be more specific. I mean, I'm just
21 -- you're the CEO. If you have issued
22 directives that changed the company
23 behavior, as to how you inter-relate with

1 the public, or the public health
2 community, or anything else, that's what I
3 want you to tell me about.

4 THE WITNESS: Well, that's
5 what I was asking for, was some more
6 specifics, because when you talk about
7 change, I mean, that -- gosh, I mean, that
8 covers all sorts of things. That's why I
9 was asking you if you could be more
10 specific, so you ---

11 MR. ROSENBLATT: --- Are
12 you really, Mr. Schindler, are you really
13 telling me that you don't have an inkling
14 as to what the basic approach is going to
15 be in a courtroom as to why the jury
16 should award minimal punitive damages? I
17 mean, you certainly know, without knowing
18 details, that the thrust of the tobacco
19 company defense in the punitive damage
20 phase of this case, is to try to persuade
21 the jury to award a low number in punitive
22 damages rather than a high number. Isn't
23 that correct, in general terms?

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1 THE WITNESS: You know, I
2 suppose that is, but I don't personally
3 view it that way.

4 MR. ROSENBLATT: How do you
5 view it?

6 THE WITNESS: I view it as
7 I'm going to go to the courtroom and I
8 will be asked questions by my own attorney
9 and by you about what I do, what I know,
10 and what I believe about what I do for a
11 living, and how this company operates.
12 And my objective is to answer those
13 questions honestly and forthrightly and
14 the jury decides what the jury decides.
15 But I have no -- nothing in my makeup, in
16 my thinking, is that I'm going in there to
17 persuade a jury of anything. I'm going in
18 there to represent this company and the
19 fine people that work for it, in an
20 honest, open, candid, responsible manner,
21 and then the jury will decide whatever
22 they decide.

23 Q. (Mr. Rosenblatt) Well, what are

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1 you going to tell the jury about how you
2 operate the company?

3 MR. JOHNSON: Object to the
4 form.

5 THE WITNESS: You know,
6 what could come out in how we operate the
7 company, if you're asking me here how do
8 we operate the company, we operate the
9 company in a fundamentally responsible and
10 ethical manner. We know we manufacture
11 and market a product that has significant
12 health risks, and we do that in a
13 responsible way, and that we have a
14 strategic commitment to work on ways and
15 means of reducing that risk or addressing
16 the risks associated with smoking. And
17 you know, my -- that's -- that's the
18 company we are and that's the company that
19 I will talk about.

20 Q. (Mr. Rosenblatt) What changes,
21 if any, have you made in the last two or
22 three years in terms of how you interact
23 with the public?

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1 MR. JOHNSON: Object to the
2 form.

3 THE WITNESS: Well, we have
4 -- you know, we have an internet site now,
5 that, you know, talks about, you know,
6 smoking and the risks of smoking, and
7 talks about, you know, the issues related
8 to addiction. Talks about our strategy of
9 reduced risks products. You know, there's
10 a whole website that deals with that. So
11 that's new within the last, you know,
12 couple of years, in terms of a way of
13 interacting with the public, using the
14 internet technology.

15 You know, at our shareholders
16 meeting a month ago, you know, in my
17 speech to the shareholders, I talked about
18 specifically -- you know, at the
19 shareholder meeting -- beyond just the
20 business and how we're doing, but also
21 about our reduced risk strategy, and our
22 commitment to reduced risk strategy. I
23 used two examples in that. One with

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1 nitrosamines and one with our current
2 Eclipse product in test in Dallas. So
3 they are, you know, just a couple things
4 that, you know, I can think of here off
5 the top of my head that are new, and I
6 suppose different in terms of
7 communicating with the public.

8 Q. (Mr. Rosenblatt) Have you come
9 up with something called a mission
10 statement?

11 A. We don't really call it a
12 mission statement. We have our, you know,
13 our core strategy for the business, our
14 core objectives, and then the various, you
15 know, tactics or -- for implementing that
16 strategy.

17 Q. What is your internet site
18 called? Is that an internet site of RJ
19 Reynolds Tobacco Company?

20 A. Yes.

21 Q. When did that first go into
22 effect?

23 A. I think -- well, there was an

1 RJRT internet site -- you know, Mr.
2 Rosenblatt, I'm not sure when the initial
3 site went into effect. I'm going to have
4 to guess a little. Probably over the last
5 couple years or so. We updated that site
6 substantially. I think officially went on
7 line, I believe it was early this year.
8 But the original, you know, RJRT site has
9 been there for several years. I just
10 don't remember when it started, but a
11 pretty substantial update in the content
12 of that site, like I said, on line early
13 this year.

14 Q. How many smokers do you have in
15 your database?

16 MR. JOHNSON: Object to the
17 form.

18 THE WITNESS: You know, I'm
19 not exactly sure.

20 MR. ROSENBLATT: What's
21 your best estimate?

22 THE WITNESS: Well, several
23 million, but it's -- I'm just not sure, I

1 mean, of a precise number.

2 MR. ROSENBLATT: You could
3 get the precise number with a telephone
4 call to someone in house?

5 MR. JOHNSON: Object to the
6 form.

7 MR. ROSENBLATT: Could you?

8 THE WITNESS: If you're --
9 yeah, if you're asking me to call someone
10 to get that number, that could be done.

11 MR. ROSENBLATT: Okay. I
12 would appreciate it if during a break you
13 would do that, and I'll come back to that.
14 Is that all right?

15 THE WITNESS: Yeah, that's
16 fine.

17 Q. (Mr. Rosenblatt) Okay. How
18 often do you communicate with smokers on
19 your database?

20 A. Oh, I -- I can't say, because,
21 you know, it depends on what the program
22 is and all that sort of thing. I really
23 can't begin to estimate how many discreet

1 times you might interact with a smoker on
2 that database.

3 Q. Is it fair to say that it would
4 be at least several times per year?

5 A. Probably is. I just don't --
6 you know, you're asking me for a number,
7 and I just don't know that number, or what
8 that number would be, but yes, I would say
9 several times a year.

10 Q. What is your reduced risk
11 strategy with respect to nitrosamines?

12 A. Well, at the core, our reduced
13 risk strategy -- if you'll allow me to,
14 you know, just back up a little and talk
15 about reduced risk, and then I'll get to
16 nitrosamines.

17 Q. Fine.

18 A. You know, the strategy at the
19 core that we have is that we know we deal
20 with a product that has risks, and that we
21 have an accountability to work on
22 addressing aspects of cigarette smoke that
23 -- in the terms of trying to reduce the

1 risks, or reduce those compounds in the
2 smoke. The fundamental discipline we go
3 through to facilitate that -- execution of
4 that commitment, is that we have a four-
5 step methodology. First is chemical
6 analysis. For example, with nitrosamines.
7 If you believe you have come up with a
8 way of reducing nitrosamines, then you
9 would implement that process and do
10 chemical analysis to determine whether or
11 not in fact they have been reduced in the
12 smoke. Do that process.

13 The next step would then be to
14 do biological and toxological assays, to
15 determine were there any changes there
16 relative to how the scientists evaluate
17 that data. Then if you went through that
18 step, you would then go to some form of
19 human studies, to see whether or not, if
20 you've gotten through the first two steps,
21 whether or not there's any sort of human
22 study that identifies some symptomatic or
23 whatever change in humans.

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1 If you got through that step,
2 then you would go to a scientific advisory
3 panel to review all of that data. That
4 process is designed that if you make it
5 through those four steps, and the
6 scientific advisory panel renders an
7 opinion relative to what you've done, that
8 you would possibly be in a position to
9 make a discreet reduced risk claim.

10 Now, let me go back to
11 nitrosamines. With nitrosamines, our R&D
12 people came up with an idea that if you
13 changed the curing process for flue-cured
14 tobacco, that you could reduce -- you
15 could potentially reduce the nitrosamines
16 in flue-cured tobacco by 90 or 90 plus
17 percent. They did this at a lab level.
18 Following that -- and they've got those
19 results, we then -- or they did -- they
20 went to the field and contracted with 24
21 or 25 farmers and their curing barns, to
22 put in this new technology, or the
23 application of this technology, to see if

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1 you cured tobacco in the field, would you
2 get that reduction in nitrosamines.

3 That field test demonstrated the
4 reduction in nitrosamines. And then from
5 there, what we did is we began a process
6 of converting -- we're now in a process of
7 converting the method by which flue-cured
8 tobacco will be cured so that this
9 reduction of 90 percent or so -- reduction
10 in nitrosamines would be facilitated in
11 all flue-cured tobacco.

12 It is also my understanding that
13 the entire industry and the growing
14 industry will convert to this curing
15 methodology or technology over the next
16 several years, so eventually, if that
17 happens, all flue-cured tobacco would be
18 cured this way, and there would be a 90 or
19 so percent reduction in nitrosamines in
20 flue-cured.

21 What we have done is implemented
22 and acted upon that knowledge, because
23 nitrosamines have always, for a long

1 period of time, been identified as a --
2 one of those compounds in cigarette smoke
3 that people say is associated with the
4 risk.

5 So we know how, through this
6 process, to reduce them substantially, and
7 we're doing it. We will not, however,
8 make any claims, direct or implied to any
9 smokers with regard to this potentially
10 reducing the risk of the product because
11 of this, because there is no data
12 anywhere, including our own, that would
13 suggest that by doing this, that you have
14 reduced the risk of the product, so
15 therefore, our standard says, you do not
16 make any direct or implied claims. But
17 our philosophy of addressing potential
18 risks, because we know how to get it out,
19 we have an obligation to go ahead and get
20 it out, or not get it out, but
21 substantially reduce it in flue-cured.

22 I know that's a long answer, but
23 that's basically it.

1 Q. As a practical matter, have you
2 been able to reduce nitrosamines in any of
3 your brands?

4 A. Eventually, the nitrosamines
5 would be reduced in all of the brands as
6 you are able to convert the growing
7 population to -- converting to, you know,
8 this way of curing, and eventually, that
9 would be the tobacco that would be
10 available, so this reduction in flue-cured
11 nitrosamines would eventually at some
12 level be in all the brands.

13 Q. Yeah, eventually, but I mean, it
14 hasn't happened as yet?

15 A. No. Because it takes -- it
16 takes time. It will happen over time. We
17 have about 800 barns -- I believe I'm
18 right -- this year that will be -- we've
19 contracted with that will cure this way,
20 but it will take some time to get all the
21 equipment and convert all these thousands
22 of barns, so that you eventually get to
23 the point that there's a whole new curing

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1 method. So it just takes time, and
2 there's not much you can do about that.
3 You move as fast as you can, but there are
4 certain limitations.

5 Q. What's the status of Eclipse
6 now, in terms of, you know, where it's
7 being sold?

8 A. Well, the -- it's still in
9 Chattanooga, as it has been for, you know,
10 really about four years now. We have
11 opened up a test market in the Dallas-Ft.
12 Worth area, and the status at this point -
13 - you know, we just started a couple weeks
14 ago, is that, you know, advertising is now
15 being run in Dallas-Ft. Worth area, and as
16 you may know, we're also -- we will within
17 a couple three months or so, we will be in
18 selected retail outlets in Dallas, but
19 we're also in this test, consumers can
20 order through the internet or through a 1-
21 800 number, but all of the advertising and
22 all of the focus is -- in the new test
23 market, is in the Dallas-Ft. Worth area,

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1 while at the same time we remain in --
2 obviously in Chattanooga.

3 Q. So the only places where Eclipse
4 is available to the purchaser are in
5 Chattanooga and the Dallas-Ft. Worth area?

6 MR. JOHNSON: Object to the
7 form.

8 THE WITNESS: No, actually
9 anyone in the country could call the 1-800
10 number or get on the internet and order
11 the product, but the marketing, the
12 advertising and so forth, Mr. Rosenblatt,
13 is concentrated in the Dallas-Ft. Worth
14 area. All right? But people obviously
15 find out about the internet, or they hear
16 about it, or they've read about the
17 product through news stories and so forth,
18 and so we've had people from around the
19 country interacting with the internet in
20 terms of trying to understand what the
21 product is about, its benefits and risks
22 and so forth, and they are able,
23 therefore, then to order. So it is in a

1 sense obviously available to whoever wants
2 to interact directly with the internet or
3 through the 1-800 number.

4 Q. (Mr. Rosenblatt) But, I mean, a
5 person can't go into a store in Miami or
6 New York or Los Angeles or Chicago and buy
7 Eclipse?

8 A. No. It's not at retail in any
9 of those locations, and in fact, it's not
10 at retail in Dallas yet. It will be,
11 though, within the next two to three
12 months.

13 Q. How many people have actually
14 ordered through the internet?

15 A. I'm not exactly sure at this
16 point. You know, we've been doing this
17 for a couple weeks. I know there have
18 been, you know, several thousand cartons
19 sold, but that would be, you know, through
20 -- some of that would be through the
21 internet. Some of that would be through a
22 1-800 number. You know, we -- and I'm not
23 sure -- this changes -- I'm not sure of

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1 the breakdown. I'm sitting here thinking
2 about it. I'm not sure of the breakdown
3 between what would be a 1-800 number
4 versus a direct sale on the internet. I
5 asked a couple weeks ago -- or a week or
6 so ago, and if my memory serves me, I
7 think there was a like a seven -- you
8 know, I'm not sure. I'm not sure, between
9 the two.

10 Q. But I mean, the way the process
11 works, if a person called the 1-800 number
12 or through the internet, and wanted a
13 package of Eclipse, it would be sent to
14 them or would they have to purchase a
15 carton?

16 A. It's a carton purchase.

17 Q. And your understanding is that
18 there have been at least several thousand
19 of those kinds of purchases?

20 A. Yes.

21 Q. Is Eclipse a safer cigarette
22 than Camel?

23 A. The -- we're not making a safer

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1 cigarette claim, and I think that would be
2 inappropriate to use the term safer.

3 Q. Then what's the point of
4 Eclipse?

5 A. Well, the claim that we make is
6 that Eclipse may present less risk of
7 cancer, of chronic bronchitis, and
8 possibly emphysema. We talk about
9 presenting, or may present, less risk. We
10 do not talk about safer. I do not
11 personally like that term of safer,
12 because I think what it potentially could
13 do to a consumer is imply safe, and I
14 don't think that would be the right thing
15 to do. There is no such thing as a safe
16 cigarette. What we're saying about
17 Eclipse, based on this four-step
18 methodology, is that we as well as the
19 scientific advisory panel that evaluated
20 all of this, believe that it may present
21 less risk, compared to other cigarettes.

22 Q. Well, there's no such thing as a
23 safe cigarette because cigarettes cause

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1 lung cancer, emphysema, heart disease and
2 chronic obstructive pulmonary disease, and
3 a lot of other diseases. Isn't that why -
4 - isn't that the underpinning of the
5 statement that there's no such thing as a
6 safe cigarette?

7 MR. JOHNSON: Object to the
8 form.

9 THE WITNESS: Well, to me,
10 there's no such thing as a safe cigarette,
11 if you're burning something, because there
12 are obviously health risks associated with
13 smoking. And if what you have is a
14 cigarette, something you light up, and
15 burn something in that process, then you
16 are dealing -- and then in the, you know,
17 the analysis of the smoke, there are
18 different compounds at some level, then
19 that says to me that there is, you know,
20 obviously some level of risk in that.

21 And what we're saying about
22 Eclipse is because of the -- in virtually
23 all cases, the substantial reduction in

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1 those compounds in the cigarette smoke,
2 we're saying that it may present, you
3 know, less risk in smoking that product
4 versus other products.

5 Q. (Mr. Rosenblatt) How did you
6 keep yourself apprised of developments in
7 the Engle class action trial, either Phase
8 1 or Phase 2, if you did at all?

9 A. Well, I would have, you know,
10 periodic updates from our legal counsel.

11 Q. Have you ever had occasion to
12 read any of the testimony given by any
13 witness during the Engle trial, either
14 phase, Phase 1 or Phase 2?

15 A. I've never read any of the
16 testimony of any witness.

17 Q. Have you read the verdicts in
18 Phase 1 and Phase 2? The verdict in Phase
19 1 was in July of '99. The verdict in
20 Phase 2 was last month.

21 A. On Phase 1, I -- yeah, I believe
22 I, you know, went through it. I did not
23 sit there and study it. It's a pretty

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1 long, complicated verdict form, as I
2 recall, but I -- you know, I looked at
3 that. I cannot remember if I actually
4 looked -- I don't think I did even look at
5 the verdict form on Phase 2.

6 Q. Well, you're aware that the jury
7 in both Phase 1 and Phase 2 found your
8 company and all the other companies to
9 have committed fraud, to have lied to the
10 American people, to have misrepresented to
11 the American people for decades, to have
12 concealed vital information, to have been
13 a part of a conspiracy, and to have
14 actually intended that smokers undergo
15 emotional distress. My question to you
16 is, do you have an appreciation or an
17 understanding of why the jury reached
18 these conclusions?

19 MR. JOHNSON: Object to the
20 form of the question. Misstates the
21 verdict.

22 MR. ROSENBLATT: Or is it a
23 mystery to you?

1 THE WITNESS: I don't -- I
2 wasn't in that courtroom. I don't know
3 what the rules of that courtroom were. I
4 don't know what the rules of evidence
5 were. I don't know what kind of witness
6 is there. I don't know what kind of
7 presentation to that jury. You know, I
8 know what the verdict was at the end, but
9 I know nothing specifically about the
10 process they were part of and engaged in.

11 Q. (Mr. Rosenblatt) Well, forget
12 the process for the purpose of this
13 question, and I'm certainly not asking you
14 to try to guess at whether there was a
15 particular document or a particular
16 witness that the jury found proved lying
17 and fraud and deception and concealment
18 and conspiracy, but I'm asking you in kind
19 of a generic way, what do you think the
20 jury concluded that your company lied
21 about over the years?

22 MR. JOHNSON: Object to the
23 question. Calls for speculation.

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1 THE WITNESS: I don't know.

2 I'm -- I was not in the courtroom, and
3 I'm -- I certainly wasn't a juror, so I
4 don't know how they got to where they are.

5 I mean, I wasn't part of that, Mr.
6 Rosenblatt.

7 Q. (Mr. Rosenblatt) Well,
8 obviously you had the option to sit in on
9 as much of the trial as you wished to.
10 You know, you didn't exercise that option,
11 for whatever reason. Isn't that true?

12 A. I suppose one could say
13 theoretically, I could have sat in the
14 courtroom for two years, but, you know,
15 Mr. Rosenblatt, I have a company to
16 manage, and it just was not in the cards
17 for me to sit in a courtroom for two
18 years. I am very confident that our legal
19 counsel is capable of representing our
20 interest in that courtroom.

21 Q. Well, I mean, you had the option
22 of saying to counsel, I understand a
23 former CEO from Philip Morris named James

1 Morgan is going to testify. Tell me when
2 he's going to testify, because I would
3 like to sit in through his testimony. Or
4 if they were going to present a particular
5 medical witness to make a particular
6 point, had you inquired, obviously you
7 could have picked certain days to come
8 down and observe. But you didn't exercise
9 that option.

10 MR. JOHNSON: Object to the
11 form.

12 THE WITNESS: That's right,
13 because I can not, sitting here, let alone
14 prior to this question, think of a single,
15 solitary reason that I would do that.

16 Q. (Mr. Rosenblatt) Well, let me
17 suggest a single, solitary reason. So you
18 would have an understanding and
19 appreciation, which you do not have now,
20 as to why this jury, after listening to
21 nine months of evidence in Phase 1, and
22 over four months of evidence in Phase 2,
23 concluded that your company had engaged in

1 egregious, fraudulent behavior for
2 decades. Had you availed yourself of the
3 opportunity to sit in or to read certain
4 testimony, you would understand. Don't
5 you think that's true? Don't you think
6 that's a good reason?

7 MR. JOHNSON: Object to the
8 form of the question.

9 THE WITNESS: No, I don't.

10 MR. ROSENBLATT: Why not?

11 THE WITNESS: I do not
12 believe that random encounters of me with
13 a particular witness or testimony in a
14 trial that went on as long as this thing
15 has been going on, would have enlightened
16 me any more as to how a jury came to their
17 verdict, than where I am today.

18 Mr. Rosenblatt, I've been
19 drinking some water here, and if we could
20 take a couple minutes, I'd like to go to
21 the men's room.

22 MS. LUTHER: I second that.

23 MR. ROSENBLATT: Should I

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1 stay on the line, Jim, or do you want me
2 to call back? I mean, do you want to take
3 a ten minute break or a two minute break?
4 Either way is fine with me.

5 MR. JOHNSON: You should
6 stay on, Stan. Probably about a ten
7 minute break.

8 MR. ROSENBLATT: Okay.
9 That's fine.

10 MR. JOHNSON: Yeah, we'll
11 put it on mute here, and just stay on, and
12 we'll be back probably in less than ten
13 minutes.

14 MR. ROSENBLATT: Okay. If
15 for any reason, I get lost ---

16 MR. JOHNSON: --- You've
17 got the number.

18 MR. ROSENBLATT: I'll just
19 call back.

20 MR. JOHNSON: Yeah.

21 MR. ROSENBLATT: Okay.

22 [Brief recess]

23 Q. (Mr. Rosenblatt) Who is your

1 top financial person, Mr. Schindler?

2 A. That's Ken Lapiekjo. He's the
3 chief financial officer.

4 MR. JOHNSON: You might
5 want to spell that for the record.

6 MR. JOHNSON: L-a-p-i-e-j-
7 k-o.

8 Q. (Mr. Rosenblatt) Is he an
9 economist?

10 A. No.

11 Q. What is his background,
12 generally?

13 A. He's, you know, trained in
14 financial disciplines, accounting and so
15 forth.

16 Q. Is he a CPA, do you know?

17 A. I -- you know, I don't know.

18 Q. Is this the person you would
19 generally call if you had a question
20 concerning, you know, technical financial
21 information?

22 A. Yes. You know, I would
23 generally call Ken.

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1 Q. Okay.

2 A. And then, you know, there are
3 also -- Tom Adams, who is our senior VP
4 and controller.

5 Q. Does your company have in its
6 employ anyone who has got a Ph.D. in
7 economics?

8 A. There is no one that I know of
9 who has a Ph.D. in economics.

10 Q. Do you regard public smoking as
11 a health issue or as a social issue?

12 A. I regard it as a -- I guess you
13 would say a social issue. I regard it as
14 something that people need to be aware of
15 that's annoying and irritating to people
16 and should be polite and courteous and
17 responsible in engaging in smoking around
18 other people, and if you're around
19 somebody who doesn't want you to smoke
20 around them, you shouldn't.

21 Q. Does second-hand smoke, or as
22 it's frequently called, environmental
23 tobacco smoke, cause any disease?

1 A. All of the data that I've seen
2 or has been presented to me and reviewed
3 with me by our R&D people, to me says and
4 indicates that environmental tobacco smoke
5 has not been shown to be a health risk.

6 Q. I'm just trying to clarify in my
7 mind the distinction you're making between
8 active smoking and second-hand smoke. You
9 regard active smoking as a health risk,
10 but you say that second-hand smoke does
11 not pose a health risk?

12 A. I regard active smoking as a
13 health risk, as we've discussed before.
14 Based on my discussions with R&D folks and
15 data they've reviewed, that the
16 epidemiology with regard to second-hand
17 smoke or ETS does not point to second-hand
18 smoke as being a health risk.

19 Q. In terms of active smoking, is
20 Reynolds still looking for a mechanism, or
21 have you pretty much given up that search?

22 MR. JOHNSON: Object to the
23 form.

1 THE WITNESS: You know, as
2 I've said before, you know, I believe that
3 smoking has significant inherent health
4 risks. I don't know of any research that
5 we're doing at this point, or that I can
6 personally recall in recent times, where
7 our R&D people were looking for mechanisms
8 with regard to causation relative to
9 health -- relative to smoking.

10 Q. (Mr. Rosenblatt) Do you
11 remember on your deposition you were asked
12 about the warning that cigarette smoking
13 causes lung cancer, heart disease, and
14 emphysema, and you were asked if that
15 warning was true and do you remember the
16 answer you gave?

17 A. No.

18 Q. Well, what's your answer today
19 to that question? Is it true that
20 cigarette smoking causes lung cancer,
21 heart disease, and emphysema?

22 A. I think it's appropriate from a
23 public health standpoint that that warning

1 label is there as it's stated, and, you
2 know, my view is that it may cause those
3 diseases.

4 Q. And it may not?

5 A. Well, I guess you could imply
6 may not, but to me there's significant
7 risk with smoking, and it may indeed cause
8 those diseases.

9 Q. What, if anything, did you or
10 your companies have to do with the recent
11 legislation passed by the State of Florida
12 impacting the Engle trial?

13 A. Well, that was passed by the
14 legislature and signed by the governor.
15 You know, during that whole process, you
16 know, I'm sure we had some lobbyists that
17 were talking with people along the way,
18 but we sure as heck didn't pass it.

19 Q. No, but you hired lobbyists
20 whose job was to try to persuade the
21 legislature to pass it.

22 A. Yeah, we hired lobbyists to
23 represent our interests, yes.

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1 Q. You're happy with the
2 legislation?

3 A. Well, I ---

4 MR. JOHNSON: --- Object to
5 the form.

6 THE WITNESS: I don't --
7 never thought of it as happy.

8 Q. (Mr. Rosenblatt) Well, was that
9 what you hired lobbyists for, to get that
10 kind of legislation?

11 A. Well, you hire lobbyists to
12 represent your interests with regard to,
13 you know, the company.

14 Q. But what was your interest with
15 regard to the legislation you wanted to
16 get passed?

17 A. From my point of view, what that
18 legislation enables is that when we go to
19 the appeal process, we will be able to do
20 that without having to go into Chapter 11,
21 potentially.

22 Q. In your opinion, is there any
23 way to verify that smoking is a cause of

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1 any particular person's disease?

2 A. I'm not a medical doctor or a
3 medical researcher or scientist, so you
4 know, I don't think I'm really qualified
5 to answer that.

6 Q. What is your current salary?

7 A. My base salary is \$900,000 a
8 year, and with that is a target bonus of
9 \$900,000 a year.

10 Q. What do you mean by a target
11 bonus?

12 A. What that means is that if you
13 achieve the goals and objectives that have
14 been established, for example for the year
15 2000, if you achieve those objectives,
16 then you would receive that bonus. If you
17 exceed those objectives, you could get
18 more than the target bonus. If you fail
19 to achieve the objectives, you could get
20 less than the target bonus. And if you
21 really fail, you could get zero of that
22 target bonus.

23 Q. What are the objectives for the

1 year 2000 of your company?

2 A. You know, our objectives are to,
3 you know, stabilize our share of market on
4 our four investment brands and to have
5 earnings consistent with what we had in
6 1999.

7 Q. What were your earnings in '99?

8 A. Net income was \$369 million.

9 Q. Was that a good year?

10 A. It was 37 percent less than the
11 previous year, so I would not classify
12 that as a good year.

13 Q. What do you attribute that to?

14 A. Primarily, to the price
15 increases that were required to meet the
16 financial obligations of the master
17 settlement agreement. With those
18 substantial price increases, there were
19 substantial volume declines, you know, in
20 the industry and for our company.

21 Q. What was your -- you have not
22 received your bonus yet for the year 2000?

23 A. Yes, I did.

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1 Q. You have received it?

2 A. Oh, I'm sorry. No, no, not for
3 the year 2000.

4 Q. Okay. What was your bonus in
5 1999?

6 A. It was around \$1.2 million.

7 Q. And was your salary in '99,
8 900,000, or less?

9 A. No, it was less. The actual
10 salary in 1999 was 775,000.

11 Q. What was your bonus in 1998?

12 A. It was -- you know, I'm going to
13 have -- I'm not sure. It was around -- I
14 think it was 400 and some thousand
15 dollars.

16 Q. And what was your salary in
17 1998?

18 A. It would have probably been
19 about 625,000.

20 Q. Well, as I've understood it,
21 you've just told me that '99 was a worse
22 year for the company than '98, yet you
23 received a much larger bonus. How would

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1 that be?

2 MR. JOHNSON: Object to the
3 form.

4 MR. ROSENBLATT: I mean,
5 what's the rationale for that?

6 THE WITNESS: First of all,
7 in 1999, in the middle of the year, as a
8 function of the spin-off occurring, where
9 RJ Reynolds became its own publicly-traded
10 company on the New York Stock Exchange
11 again, with that came, you know,
12 significant increased responsibilities, so
13 my base pay was increased. You know, the
14 board increased the base pay and increased
15 the target bonus versus what it was in
16 1998, as a operating company.

17 Q. (Mr. Rosenblatt) How much stock
18 do you own?

19 A. Do I personally own?

20 Q. Yes.

21 A. I personally own around 9,000
22 shares.

23 Q. 9,000 shares of what entity?

1 A. Of RJ Reynolds Tobacco Holdings.

2 Q. And how about your options?

3 A. Then there are about 165,000
4 restricted shares, restricted stock
5 options.

6 Q. Do you have options in any other
7 category?

8 A. There are around 350,000 stock
9 options.

10 Q. What does that mean in practical
11 terms?

12 A. In practical terms, 350,000 or
13 so stock options are worth absolutely
14 nothing today, because of the current
15 stock price. The 165,000 restricted
16 shares have -- would have a calculated
17 worth today, if you assume the stock price
18 is \$22, our stock price, that would be
19 about \$3.6 million.

20 Q. What do you attribute the price
21 of the shares of stock to? The fact that
22 they're at a particular level now?

23 MR. JOHNSON: Object to the

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1 form.

2 THE WITNESS: Well, the --
3 you know, that's the collective investors'
4 perception of the worth of the stock
5 relative to their perceptions of the -- of
6 the industry, relative to our performance
7 in our business fundamentals inside the
8 industry, and whatever perceptions
9 investors have relative to litigation
10 risk. In my opinion, that would be the
11 core drivers of any given stock price.

12 Q. (Mr. Rosenblatt) You follow the
13 stock analysts, don't you? Do you read
14 them?

15 A. Yes, I read the analysts, and
16 obviously the analysts -- you know, I
17 spend time with analysts, in terms of
18 interviews and that type of thing.

19 Q. Do you think it's fair to say
20 that the consensus of the analysts is that
21 the market value for tobacco stocks is
22 depressed now because they've already
23 discounted the Engle verdict and the

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1 punitive damage phase?

2 MR. JOHNSON: Object to the
3 form.

4 THE WITNESS: I don't know
5 that the analysts say that. I think
6 broadly analysts believe that the
7 depressed level of the stock is related to
8 litigation.

9 Q. (Mr. Rosenblatt) Well, when you
10 say it's related to litigation, isn't the
11 one case that the analysts tend to focus
12 on the Engle case?

13 A. Well, they obviously, as you
14 know, focus on the Engle case, but they,
15 you know, focused on the Whiteley case in
16 California. I mean, they -- they focus on
17 litigation. Obviously, Engle is part of
18 that.

19 Q. Have you seen the tobacco
20 analysts talk about a potential punitive
21 damage award in the amount of \$200 billion
22 or \$300 billion? Have you seen that
23 figure mentioned by tobacco analysts when

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1 talking about the Engle case?

2 A. You know, I cannot specifically
3 attest to analysts writing that. I know
4 that various people have written about
5 hundreds of billions, \$100 billion, \$200
6 billion. I'm not sure I remember \$300
7 billion, but you know, I can't attribute
8 that specifically to any analyst that
9 comes to mind. I know people have written
10 with numbers of \$100 to \$200 billion.

11 Q. In terms of the Engle case?

12 A. Yes.

13 Q. That seems to be the -- when the
14 media, whether it's the Wall Street
15 Journal or the New York Times, when they
16 talk about the Engle case, and they talk
17 about the potential of it, they're usually
18 in that range, aren't they? \$200 billion?

19 A. I've heard or seen sometimes
20 \$100 billion, sometimes \$200 billion.

21 Q. Have you had occasion to meet
22 with or speak with Bob Butterworth?

23 A. No, I haven't.

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1 Q. Have you had occasion to meet
2 with or speak with any of the attorney
3 generals, including Mike Moore of
4 Mississippi?

5 A. No, I haven't.

6 Q. What is your company worth at
7 the present time?

8 MR. JOHNSON: Object to the
9 form. Vague.

10 MR. ROSENBLATT: You think
11 that's a vague question, Mr. Schindler?

12 THE WITNESS: Are you
13 talking about net worth?

14 MR. ROSENBLATT: Well, you
15 tell me.

16 THE WITNESS: Well, I mean
17 well, you're asking ---

18 MR. ROSENBLATT: --- In
19 other words, if someone -- you know, I'm
20 sure, over coffee sometimes, you've had a
21 friend ask you, you know, what is the
22 company worth?

23 MR. JOHNSON: Object to the

1 form.

2 MR. ROSENBLATT: Would you
3 respond in terms of net worth, or would
4 you respond in terms of something else?

5 THE WITNESS: I've never
6 had a friend over coffee say, hey, Andy,
7 what's the company worth? Just to clarify
8 that.

9 MR. ROSENBLATT: Okay. I'm
10 not a friend, but I'm asking you, hey,
11 Andy, what's the company worth, and your
12 answer is what? You don't know what I
13 mean?

14 THE WITNESS: Well, you can
15 calculate to different -- the financial
16 rules, a net worth number that for Tobacco
17 Holdings, I believe probably calculates at
18 around \$7 billion. That's not something
19 you can go buy anything with. You could
20 say what's the worth of the company. You
21 could say, well, today if it's \$22 a
22 share, and you have 100 and some million
23 shares out there, you could say the worth

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1 of the company is -- of Holdings would be
2 somewhere around \$2.2 or \$2.3 billion.

3 You could speculate on what if
4 somebody bought the company. To me, there
5 seems to be a variety of ways of
6 calculating the worth of Tobacco Holdings.

7 Q. (Mr. Rosenblatt) And what I'd
8 like you to do is simply mention to me
9 those various methods as you understand
10 them.

11 A. I think I just did. Market cap.
12 You know, what the stock market is saying
13 you're worth, number of shares times your
14 share price at a point in time.

15 Q. Right. Any other method other
16 than net worth and market cap?

17 A. Gosh. They're the two that come
18 to mind.

19 Q. What's the cash position of your
20 company at the present time?

21 A. You know, exactly today, I'm not
22 sure. It's probably about -- it's
23 somewhere around, I would think, 900

1 million. It moves around, depending on
2 when we write checks for the master
3 settlement agreement.

4 Q. How would you describe the
5 primary theme of Camel advertising today?

6 A. Well, I would describe it as how
7 the brand's personality is positioned as,
8 you know, fun, a little irreverent, with a
9 mystique and heritage that goes back to
10 1913.

11 Q. What is 'pleasure to burn' meant
12 to convey?

13 A. What I just said. Fun,
14 irreverent, hearkening back to the
15 mystique and legacy of 1913, both in
16 pleasure to burn and the way -- you know,
17 the total ad itself is illustrated or
18 portrayed.

19 Q. What percentage of Turkish
20 tobacco is there in Camel cigarettes?

21 MR. JOHNSON: Objection.
22 That's proprietary, and we won't answer
23 that on an open record like this,

1 particularly with competitors'
2 representatives in the room.

3 MR. ROSENBLATT: That
4 answer wouldn't tell competitors anything.

5 MR. JOHNSON: Well, that's
6 our position, Stan.

7 Q. (Mr. Rosenblatt) Do you use
8 Turkish tobacco in any brand other than
9 Camels?

10 A. Yes.

11 Q. How many? All of them?

12 A. I'm not sure.

13 Q. But you are sure that Turkish
14 tobaccos are used not only in Camels but
15 at least in some other brands?

16 A. Yes.

17 Q. What do you understand the term
18 'gray market' to mean?

19 A. Gray market is a market that
20 comes from cigarettes that are made in the
21 United States for export. Some customer
22 offshore of the United States, outside the
23 United States, buys these products that

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1 are meant to go into the export or
2 offshore market. They divert them back
3 into the United States, pay all the taxes,
4 federal and state excise taxes, and then
5 this customer, whoever it is, will sell
6 them to a variety -- you know, various
7 retailers and wholesalers, and then they
8 will end up at some retail locations and
9 be sold at a lesser price than what that
10 product would sell for if it were sold --
11 if it were sold directly in the United
12 States. And I think the term gray market
13 came out of the fact that at the time this
14 developed it was legal, if you paid all
15 these excise taxes.

16 Q. Is it illegal now, or still
17 legal?

18 A. The federal government has a law
19 that went into effect this year that says
20 it's not legal to bring those products
21 back in that way, and there are, I
22 believe, 30 some states that have passed
23 legislation along the same lines.

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1 Q. Has the gray market been a
2 problem for your company?

3 A. Yeah. It's a problem.

4 Q. How have you attempted to solve
5 the problem?

6 A. Well, we have told all of our
7 customers that if they deal in gray market
8 cigarettes, they will be pulled off --
9 pulled out of our various merchandising
10 and retail programs, and wholesaler
11 programs. We have sued some wholesalers
12 and retailers that we have -- that have
13 been shown to be dealing in this product.
14 We've sued them on trademark
15 infringement, which is the approach that
16 we were able to take.

17 This is a very serious problem
18 for us. Every time one of those packs are
19 sold, say it's Camels, that is profits
20 that we don't get, and also beyond that,
21 because of Camel, there could be a
22 different graphics on the pack. It could
23 be sometimes old product. It is a very

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1 serious problem that retail, wholesale
2 customers care about, and we care about,
3 and we're doing everything we can do to
4 eliminate it.

5 Q. Are you a smoker?

6 A. Yes.

7 Q. What brand?

8 A. I smoke primarily Eclipse, but
9 then I'll, you know, smoke at various
10 times, you know, a variety of our other
11 brands and brand styles, but primarily
12 Eclipse.

13 Q. And for how long have you been
14 primarily Eclipse?

15 A. Oh, I would say -- on Eclipse,
16 probably five years or so, four or five
17 years.

18 Q. On a daily basis?

19 A. Yes.

20 Q. What was your brand before
21 Eclipse, your regular brand?

22 A. Well, I smoked some Premiers
23 before Eclipse, and then, you know, before

1 that, I would smoke, you know, Camels and
2 Winstons over -- you know, it depends how
3 far back you want to go, but over time.

4 Q. At your heaviest, how heavy were
5 you smoking? A pack a day, two packs a
6 day?

7 A. Well, are you're talking about
8 my entire smoking history?

9 Q. Yeah.

10 A. I would say the heaviest smoking
11 I ever did when I was in Vietnam, that
12 probably was for a time up around three
13 packs a day.

14 Q. And what was your heaviest
15 smoking in civilian life?

16 A. Well, in civilian life, probably
17 about a pack and a half a day. Pack, pack
18 and a half.

19 Q. You agree that there is a
20 universal medical and scientific consensus
21 that cigarette smoking causes lung cancer,
22 heart disease, emphysema, chronic
23 obstructive pulmonary disease, and many

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1 other diseases?

2 MR. JOHNSON: Object to the
3 form.

4 THE WITNESS: Well, you
5 used the term universal.

6 MR. ROSENBLATT: By that, I
7 don't mean 100 percent. By that, I mean
8 95 percent.

9 THE WITNESS: Well, it's --
10 yeah, it seems to me that, you know,
11 forgetting 95 or 100, but it seems to me
12 that, you know, predominantly public
13 health community and the medical community
14 articulates that cigarettes causes various
15 diseases, you know, obviously some of
16 which you listed, and that the warning
17 label on the pack says it does.

18 Q. (Mr. Rosenblatt) How long, in
19 your opinion, has that consensus existed?

20 MR. JOHNSON: Object to the
21 form.

22 THE WITNESS: You know, I'm
23 not sure. I've never really thought about

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1 that, how long has that -- I would say
2 for, you know, 20 years, 30 years. I
3 don't -- you know, I don't really know.

4 Q. (Mr. Rosenblatt) Okay. What's
5 the leading Reynolds brand?

6 A. Doral.

7 Q. Now Winston at one time was
8 number one in this country. Right?

9 A. Yes. Many years ago.

10 Q. Right. As you -- you're
11 obviously very familiar with the tobacco
12 industry, and I assume you're very
13 familiar with Marlboro's absolute
14 predominance over the last 25 years or so,
15 what in your judgment caused Winston, you
16 know, to lose the number one spot?

17 A. Marlboro did a better job.

18 Q. A better job of what?

19 Advertising?

20 A. No, I think Marlboro's success
21 is a combination of a very good product,
22 and very good, outstanding advertising and
23 marketing campaign.

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1 MR. JOHNSON: I want that
2 last answer under seal.

3 Q. (Mr. Rosenblatt) Well, asked
4 another way, I mean, obviously Reynolds
5 and every other competitor has been doing
6 everything within their power to knock off
7 Marlboro, and for one of your brands to
8 become number one. My question is, what
9 do you attribute that failure to, for so
10 long? Not to be able to supplant
11 Marlboro, because historically, I think
12 that Marlboro has been number one, and has
13 been at greater distance between number
14 one and number two, than at any other time
15 in the history of the cigarette business.
16 So what do you attribute the failure to?

17 A. Well, I think -- I think Camel
18 is doing pretty good in the marketplace.
19 If you're talking about Winston, it's kind
20 of what I said before. I don't -- I don't
21 think the brand, over it's many years of
22 decline, had a strong, compelling, simple
23 personality executed through its marketing

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1 to the consumers, and I think that
2 obviously consumers preferred the Marlboro
3 product. So it's that a successful brand
4 has a compelling personality, and a good
5 product, and that combination -- that is
6 what we would describe as -- you know,
7 strong brand equity, somewhere in that
8 mix, and obviously Marlboro has done a
9 better job of that over time than Winston.

10 Q. (Mr. Rosenblatt) Do you think
11 Marlboro is a better cigarette than Camel
12 or Winston?

13 A. A better cigarette? No.

14 Q. What is Camel's market share?

15 A. Camel's market share is about
16 5.3 share points.

17 Q. And what is Doral's?

18 A. About 6.3.

19 Q. What is your understanding of
20 the number two cigarette in the country,
21 after Marlboro?

22 A. Do you mean which brand is it?

23 Q. Yes.

1 A. Well, based on last year's
2 number, it would be I think a tie between
3 Newport and Doral.

4 Q. And what is their market share,
5 about?

6 A. They -- by our system that we
7 use to calculate market share, and that is
8 what consumers are actually smoking, we
9 had them at about a 6.3, I believe, for
10 all of last year, and Doral at about the
11 same.

12 Q. And Marlboro's share is what?

13 A. Well, today they're up on our
14 system about 37 share points.

15 Q. Do you agree that younger adult
16 smokers have been the critical factor in
17 the growth and decline of every major
18 brand and company over the last 50 years?

19 MR. JOHNSON: Object to the
20 form.

21 THE WITNESS: No.

22 MR. ROSENBLATT: Why not?
23 What don't you agree with?

1 THE WITNESS: I don't agree
2 with what you said.

3 MR. ROSENBLATT: Why?

4 THE WITNESS: Well, show me
5 the data. Doral has grown to over six
6 share points, and to my knowledge, that is
7 all among -- switching among -- or among
8 adult smokers. I mean, that's one example
9 I can think of.

10 Q. (Mr. Rosenblatt) Is it your
11 position that all of the expenditure of
12 money by Reynolds in terms of advertising
13 and promotion is directed toward trying to
14 get smokers to switch to your brands?

15 A. Your advertising and marketing
16 efforts are directed at trying to get
17 competitive smokers to switch to your
18 brands, or consider your brands, as well
19 as directed at your adult franchise
20 smokers to, you know, help reaffirm their
21 commitment to your brand.

22 Q. Did Reynolds ever target kids,
23 under-age smokers, to try to get non-

1 smoking teenagers to begin smoking your
2 brands? Did Reynolds ever do that in its
3 history?

4 A. Absolutely, no. Well, ever in
5 its history. My knowledge in 26 years, I
6 do not know of a single circumstance where
7 this company targeted people under the
8 legal age to buy the product, to start
9 smoking or to smoke one of its brands.

10 Q. And it's your position that
11 Reynolds does not advertise and promote to
12 try to persuade non-smokers to begin
13 smoking? If that happens, that's not your
14 intent. That's your position, isn't it?

15 A. It's not just the position. I
16 think it's a reality. It is a reality.
17 We do not in any way, shape or form
18 develop strategies to try and persuade
19 people who don't smoke to smoke.

20 Q. Well, I don't think it was a
21 reality to the Engle jury, and if you had
22 heard the testimony, you might not think
23 it was a reality to them either.

1 MR. JOHNSON: There's no
2 question.

3 MR. ROSENBLATT: The
4 question is, there's no doubt in my mind
5 that part of the basis for the findings by
6 the jury is, they did not believe that you
7 did not target kids, and they did not
8 believe that you advertised only for
9 smokers, but you have no way of knowing
10 one way or the other, since you didn't
11 follow the trial. Isn't that true?

12 MR. JOHNSON: Object to the
13 form.

14 THE WITNESS: As we've
15 discussed before, I wasn't at the trial,
16 nor was I in the jury room.

17 Q. (Mr. Rosenblatt) No, but you've
18 seen the verdict. You've seen the
19 verdict.

20 A. Yes.

21 Q. And you know that this jury
22 concluded that your company committed
23 fraud on the American people for decades,

1 and that you were part of a conspiracy to
2 lie and cheat the American people. You
3 don't know the underpinning for those
4 findings, but you know that's what the
5 jury found, don't you?

6 MR. JOHNSON: Objection.
7 Asked and answered. Argumentative.

8 THE WITNESS: What's the
9 question, Mr. Rosenblatt?

10 MR. ROSENBLATT: You know
11 that's what the jury found, don't you?
12 That's the question.

13 THE WITNESS: I understand
14 that one of the findings had to do with
15 fraud. I don't know what that fraud was.
16 I was not in the courtroom. I was not
17 part of the trial process, and I have no
18 idea what the jury discussed among
19 themselves.

20 Q. (Mr. Rosenblatt) And you have
21 no idea as to the basis of the jury's
22 findings. You have no idea about the
23 areas where they found that your company

1 lied and misrepresented and concealed.

2 It's all a mystery to you, isn't it?

3 MR. JOHNSON: Objection.

4 Asked and answered, about three times
5 already.

6 MR. ROSENBLATT: Correct?

7 It's a mystery to you, isn't it?

8 THE WITNESS: I was -- I am
9 incapable of speculating on what was in a
10 juror's mind in this process and what they
11 discussed. I was not a juror. I was not
12 in the courtroom. I am incapable of
13 speculating on how they arrived at the
14 conclusions they arrived at.

15 Q. (Mr. Rosenblatt) Let's examine
16 that last statement. You know that the
17 thrust of the tobacco industry's position
18 in Phase 1 of this case, the Engle case,
19 was that, just as you've said today,
20 cigarette smoking, it hasn't been
21 scientifically proven that cigarette
22 smoking causes these various diseases, and
23 the tobacco industry position was, it's a

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1 risk factor, but it hasn't been
2 scientifically proven that it causes these
3 diseases, and it's not really addictive,
4 because there are 50 million quitters, and
5 anyone who really makes up their mind to
6 quit, can quit. So when you look at the
7 jury's verdict, isn't it obvious to you
8 that they didn't believe you and your
9 witnesses in those areas, the areas of
10 causation and addiction?

11 MR. JOHNSON: Object to the
12 form and calls for speculation.

13 MR. ROSENBLATT: Can you
14 rationally reach any other conclusion,
15 other than the one I've just given you?

16 MR. JOHNSON: Object to the
17 form.

18 MR. MOSS: Join.

19 MS. LUTHER: Objection.

20 MR. ROSENBLATT: What's
21 your answer?

22 THE WITNESS: I'd like to
23 hear the question again.

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1 MR. ROSENBLATT: Can you
2 rationally reach any conclusion other than
3 that the jury did not believe the tobacco
4 industry point of view on causation and
5 addiction, to reach the conclusions it
6 reached in its two verdicts?

7 MR. JOHNSON: Object to the
8 form.

9 THE WITNESS: Again, Mr.
10 Rosenblatt, I am incapable of speculating
11 on how the jury got to their conclusions.

12 Q. (Mr. Rosenblatt) How much does
13 Reynolds spend per year on advertising and
14 promotions?

15 A. The advertising, promotion, what
16 you would think of as, you know, classical
17 marketing budget, has for the last four
18 years or so, been around \$600 million.

19 Q. Does Reynolds have a youth
20 prevention program?

21 A. We have a youth program, youth
22 smoking prevention program, called Right
23 Decisions Right Now, and we also are part

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1 of the We Card Program, that the industry,
2 along with retailers, have been
3 implementing for the last five or six
4 years at retail to train retailers on how
5 to ensure that people are carded when they
6 smoke, to, you know, prevent access to
7 under-age smokers.

8 Q. How much does Reynolds spend on
9 those programs per year?

10 A. About \$2.5 million.

11 MR. ROSENBLATT: Jim, have
12 you brought -- has the witness brought
13 with him documents in response to the
14 notice of taking his deposition, Exhibit

15 A?
16 MR. JOHNSON: We only got
17 that notice two, three days ago, Stan.
18 I've got with me his deposition, which I
19 think was called for by that notice. We
20 are in the process of trying to see
21 whether we have other responsive
22 documents, and we did not bring -- other
23 than the depo, anything with us today.

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1 MR. ROSENBLATT: Well,
2 after the lunch break, I'll go down, you
3 know, that list.

4 MR. JOHNSON: Sure.

5 MR. ROSENBLATT: I won't do
6 that now.

7 MR. JOHNSON: Would now be
8 a good time to break?

9 MR. ROSENBLATT: Yeah, now
10 is fine. How long of a break do we want?

11 MR. JOHNSON: How much
12 longer do you have? I mean, we can go
13 short, we can go -- you know, depends on
14 how much longer you want to go.

15 MR. ROSENBLATT: That's
16 hard to say. Probably two to three hours.

17 MR. JOHNSON: Okay. What's
18 the consensus, gang? An hour?

19 [Luncheon Recess]

20 Q. (Mr. Rosenblatt) Mr. Schindler,
21 Do you have any background in finance or
22 accounting?

23 A. No.

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1 Q. What was your major in college?

2 A. My undergraduate major was
3 history, and then I got an MBA from the
4 Wharton School.

5 Q. And the focus of the MBA was
6 what? Just general business?

7 A. Yes.

8 Q. Does your company advertise in
9 Rolling Stone?

10 A. Yes. I believe we do.

11 Q. On a regular basis?

12 A. Yes. I would think so, yes.

13 Q. How about Sports Illustrated?

14 A. Yes.

15 Q. Have you advertised in the
16 swimsuit edition of Sports Illustrated?

17 A. Probably. I mean....

18 Q. Do you advertise in Playboy?

19 A. Yes.

20 Q. Do you advertise in any other
21 so-called girlie magazines?

22 MR. JOHNSON: Object to the
23 question.

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1 MR. ROSENBLATT: For want
2 of a better term. You know, you
3 characterize it any -- what I call girlie
4 magazines are magazines that have pictures
5 of either naked women or almost naked.
6 That to me is a girlie magazine, no matter
7 how highfalutin' an article may be in the
8 magazine.

9 THE WITNESS: Well, I know
10 we're in Playboy. You know, I don't want
11 to speculate beyond that.

12 Q. (Mr. Rosenblatt) How about
13 Hustler?

14 A. I don't think so.

15 Q. Okay. How does Camel Cash work?

16 A. It's -- you know, what we call a
17 continuity program. A smoker holds on to
18 or saves, you know, Camel Cash coupons,
19 and then they are able to at whatever
20 point redeem coupons for, you know,
21 certain items.

22 Q. Such as? What are some of the
23 items that are part of the Camel Cash

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1 program?

2 A. Well, that's changed a lot since
3 the MSA. It used to have a lot of logo-ed
4 items, you know, anything from ashtrays to
5 coffee mugs to t-shirts and hats and all
6 that sort of thing. All of that has gone
7 away, because in the MSA you can't use any
8 logo-ed or branded, you know, utilitarian
9 items such as that. So today, the current
10 Camel Cash, people can save coupons and
11 redeem them for various trips, for
12 example, and other kinds of merchandise
13 that might be in that catalog that are non
14 logo-ed, but there are trips and some
15 merchandise.

16 Q. Does Reynolds give out racing
17 gear in connection with the Winston Cup
18 promotion?

19 A. Racing gear?

20 Q. Or if not racing gear, then
21 what, if anything, in connection with the
22 Winston Cup program?

23 A. Well, we just started this year

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1 a -- again, this language of continuity
2 program, called Winston Racing Nation, and
3 that has certain, you know, benefits to
4 it, if you join the Winston Racing Nation
5 Club, and I am -- right now, I'm not sure
6 off the top of my head, what the exact,
7 you know, items or merchandise might be in
8 connection with Racing Nation.

9 Q. What does that mean, the 'Racing
10 Nation'?

11 A. It's just a term, you know, for
12 Winston smokers that, you know, in one way
13 or the other have some interest in racing.

14 (Off record discussion)

15 A. It's just a way of describing
16 the program.

17 Q. Did you get me that database
18 information during the break?

19 MR. JOHNSON: We did not.
20 We -- I was advised during the break that
21 that is a -- the number there is
22 proprietary. If we can enter into some
23 kind of confidentiality agreement, I will

1 -- we will provide you that number.

2 MR. ROSENBLATT: Okay. I
3 assume you have the number. You're not
4 giving it to me now, but at this point,
5 Mr. Schindler knows what the number is.

6 MR. JOHNSON: He doesn't
7 know yet. We will find out, and give it
8 to you, assuming we can enter into a
9 confidentiality agreement.

10 MR. ROSENBLATT: Okay.

11 Q. (Mr. Rosenblatt) In terms of
12 Camel advertising, does Camel still use
13 the theme of 'what you're looking for'?

14 A. No.

15 Q. Why was that discontinued? Did
16 it have to be discontinued under the MSA?

17 A. No.

18 Q. Why was it discontinued?

19 A. We moved from the 'what you're
20 looking for' campaign to a campaign called
21 'mighty tasty' and from 'mighty tasty' we
22 moved to the current campaign, called
23 'pleasure to burn.'

1 Q. Now when you talk about the
2 current campaign, 'pleasure to burn,' is
3 it fair to say that all current Camel
4 advertising has that as its theme,
5 'pleasure to burn,' or are there some
6 Camel advertisements that have a different
7 theme, currently.

8 A. It's fair to say that all the
9 camel advertising is under the theme of
10 'pleasure to burn.'

11 Q. Who is your main outside
12 advertising agency?

13 A. With regard to Camel?

14 Q. Well, I'd like it for the
15 company as a whole. If not, tell me with
16 regard to Camel.

17 A. Well, with Camel, it's Muzinna
18 Brown.

19 Q. Okay. Does Muzinna Brown have
20 the majority of the other brands as well?

21 A. No. They just have Camel.

22 Q. Which brands do you advertise
23 most heavily, from the standpoint of

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1 dollars? Is it Camel, or is it Winston?

2 A. I would say Camel and Winston
3 are probably pretty close together, and
4 then Doral. And then some on Salem.

5 Q. How much do you figure you spend
6 a year on Camel advertising?

7 A. The total advertising
8 expenditure is around \$165 million. I am
9 not exactly sure on Camel, but you know,
10 it's probably around \$60 million. That's
11 a bit of a guess on my part.

12 Q. The United States government
13 estimates that smoking kills approximately
14 420,000 Americans prematurely each year.
15 Do you agree or disagree?

16 MR. JOHNSON: Object to the
17 form.

18 THE WITNESS: I obviously,
19 as I stated before, agree that cigarette
20 smoking represents significant and
21 inherent health risks. I have no idea how
22 many people's illness and subsequent death
23 are related to smoking.

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1 Q. (Mr. Rosenblatt) Now, the
2 health community, health groups, don't
3 want young people to smoke, because they
4 don't want them to become addicted to a
5 drug and a product that causes disease.
6 Why don't you want young people to smoke?

7 MR. JOHNSON: Object to the
8 form.

9 THE WITNESS: I don't want
10 young people to smoke for several reasons.

11 Obviously, if you're under the legal age
12 to buy the product, it's illegal. It's a
13 product that becomes habit-forming, has
14 health risks somewhere out into the
15 future, and I don't believe someone who is
16 under the legal age, children, are capable
17 of making that, you know, that kind of
18 decision with a product like this, and
19 they should not smoke.

20 Q. (Mr. Rosenblatt) Does your
21 website indicate whether Reynolds believes
22 that smoking causes disease?

23 A. The website states, I think

1 fairly clearly, that, you know, we believe
2 that it has significant and inherent
3 health risks, and may cause disease in
4 some people.

5 Q. Since you've been -- you've been
6 with Reynolds how many years?

7 A. 26 years with RJR. Probably 23
8 -- about 21 of that with the Tobacco
9 Company.

10 Q. During your tenure, has there
11 ever been a year when cigarette prices
12 were not raised, on your brands?

13 A. You know, I'm not totally sure
14 of this, but there may have been a twelve
15 or so month period -- you know, geez, I'm
16 not sure. The only time I can think of
17 where that may have happened would have
18 been after Marlboro Friday, somewhere back
19 in '93, '94 period.

20 Q. Is it fair to say that during
21 the years of your relationship with the
22 company, that the pattern has been to
23 raise prices on your brands twice a year?

1 A. No. Through my entire time with
2 the company, no, that's true (sic). I
3 mean, the pattern over that 20 some year
4 period, there were times where you would
5 get a price increase perhaps every twelve
6 months or so. There was a period where
7 maybe every -- maybe twice a year as you
8 say here. Then there was a period where
9 the previous eight or nine price increases
10 were rolled back, in 1993, with what is
11 known as Marlboro Friday. So it's -- then
12 there's been this period of settlements
13 with certain states, and global
14 settlement, where there's perhaps a higher
15 frequency of price increases, so it varies
16 over time.

17 Q. What is the average retail price
18 of Camels per pack in the US today?

19 A. The average retail price today
20 is probably, you know -- probably about
21 \$2.88, \$2.90 a pack, something like that.

22 Q. Are the prices for your premium
23 brands all comparable?

1 A. Yes.

2 Q. Do you expect Reynolds to raise
3 the price of cigarettes this year, 2000?

4 MR. JOHNSON: Object.
5 Proprietary.

6 MR. ROSENBLATT: You're
7 telling him not to answer?

8 MR. JOHNSON: Yes.

9 Q. (Mr. Rosenblatt) How much money
10 does Reynolds plan to spend in the year
11 2000 on stock buy-backs?

12 A. Well, the board in February
13 approved a stock buy-back of \$100 million.

14 It is, you know, what we've told
15 investors is that we expect to complete
16 that \$100 million buy-back by year-end.

17 Q. Explain how a stock buy-back
18 works, and what its purpose is.

19 A. A stock buy-back is that we go
20 buy back stock on the open market. I
21 mean, that's the -- that's how that works.

22 And what was the ---

23 Q. --- What is the purpose of doing

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1 that?

2 A. The reason we, you know, wanted
3 to do stock buy-backs, is because of --
4 you know, depending on the dividend yield
5 on the stock, which over the last month or
6 so, we had stock prices at \$15, \$18, \$17,
7 \$20. It's around \$22 now. There was a
8 very high yield on that \$3.10 dividend, so
9 you get into those high yields and the
10 stock price at \$19, \$20, that you could
11 get a 15 percent after-tax return on
12 buying back your stock. For each share of
13 stock that you buy back, that's a \$3.10
14 dividend you don't have to pay, so there's
15 a very clear investment return, if you
16 will, from our standpoint, by doing that.
17 So that's the main motivation.

18 Beyond that, there's the sort of
19 general notion that stock buy-backs are
20 theoretically good for people that hold
21 the stock, or continue to hold it, because
22 the less shares that you have in the
23 marketplace, the theory goes, that

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1 eventually your stock price will be
2 higher.

3 Q. What has been the pattern of
4 stock buy-backs for, let's say, the last -
5 - the decade of the 90's?

6 A. I can't really speak to that. I
7 mean, I can speak to the stock buy-backs
8 that we've initiated since we became a
9 public company in June of last year. We
10 had a -- we initiated a stock buy-back of
11 \$125 million in November of last year,
12 which was completed in February of this
13 year, and then as we just discussed, we
14 have the other \$100 million authorization
15 from the board to buy back stock between
16 now and the end of the year.

17 Q. And you anticipate that will in
18 fact be accomplished?

19 A. That's our plan.

20 Q. Does Reynolds plan on raising
21 its stock dividend in the year 2000?

22 MR. JOHNSON: Objection.

23 Proprietary information.

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1 Q. (Mr. Rosenblatt) What has
2 Reynolds done in terms of stock dividends
3 in recent years?

4 A. Again, I'll talk to -- and what
5 I can talk to is RJ Reynolds Tobacco
6 Holdings, since the spin-off. At the time
7 of the spin-off, we received authorization
8 from the board to have a annualized
9 dividend of \$3.10 for each share of stock
10 that someone owns, and that's -- was
11 approved -- it was June or July of last
12 year after the -- I guess it was July of
13 last year, after the spin, and that's
14 where we are today.

15 Q. What amount of punitive damages
16 returned by the Engle jury would cause
17 Reynolds to go bankrupt, in your opinion?

18 A. Well, the numbers that have been
19 thrown around in the press, I think, \$100
20 billion would do it.

21 Q. How about \$90 billion?

22 A. Yeah. I suspect that would do
23 it.

1 Q. How about \$80 billion?

2 A. We're going to keep doing this,
3 I suspect, until we get to a point where I
4 say, I don't know. If you're looking for
5 where is the final line you can go before
6 you're in bankruptcy, I don't know.

7 Q. But you would agree that --
8 let's just -- if there were a verdict of
9 \$100 billion, but there was an agreement
10 whereby you could pay that out under
11 essentially the same terms as the master
12 settlement agreement, then it definitely
13 wouldn't cause Reynolds to go into
14 bankruptcy.

15 MR. JOHNSON: Well, object
16 to that question as asking for a
17 conclusion based on something which is not
18 authorized under the law. It's just
19 completely unreal.

20 MR. ROSENBLATT: No, it's
21 completely real. Whatever the law was, a
22 plaintiff's lawyer can negotiate. It
23 happens all the time, you know, after a

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1 judgment. This is a hypothetical
2 question.

3 MR. JOHNSON: Well, on the
4 basis ---

5 MR. ROSENBLATT: --- The
6 hypothetical question is, that if there
7 were a verdict of \$100 billion in punitive
8 damage, and I as class counsel said, okay,
9 you can -- you don't have to pay us the
10 \$100 billion within 30 days, even though
11 we have a judgment, or may have a
12 judgment. You can pay it out over the
13 next 25 years. If I were to say that,
14 hypothetically, as class counsel
15 representing the class, it would not cause
16 Reynolds to go bankrupt. Isn't that
17 correct?

18 MR. JOHNSON: I'm going to
19 state my same objection to this misleading
20 question.

21 MR. ROSENBLATT: You can
22 answer it.

23 THE WITNESS: I am not

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1 capable of speculating here on
2 hypothetical scenarios on what would put
3 you in bankruptcy. It is a complex issue,
4 and I think I'd be remiss to sit here off
5 the top of my head, and speculate on your
6 hypothetical terms of agreeing on payment
7 streams, and whether or not that would put
8 us in a Chapter 11 or extremely difficult
9 financial situation that could lead to
10 Chapter 11.

11 Q. In anticipation of the punitive
12 damage verdict, has Reynolds hired
13 bankruptcy lawyers?

14 MR. JOHNSON: Objection.
15 Instruct you not to answer the question.

16 MR. ROSENBLATT: Jim, why
17 don't you hand to the witness the Exhibit

18 A.

19 MR. JOHNSON: Okay.

20 MR. ROSENBLATT: I want to
21 go down that list with him. If he has it
22 in front of him, it will make it simpler.

23 MR. JOHNSON: Yeah. He now

1 has it in front of him, Stan.

2 Q. (Mr. Rosenblatt) Okay.

3 Documents to be produced, number one, a
4 current curriculum vitae or resume which
5 lists all your publications and
6 presentations. Now, as I understood from
7 Mr. Johnson, you have not brought that
8 with you. Does such a document exist?

9 A. I have a company biographical
10 sketch, that would be, in effect, I guess,
11 a resume. Education, job experience,
12 boards I'm on. I have that.

13 Q. Have you brought that with you?

14 MR. JOHNSON: No.

15 THE WITNESS: No, I haven't
16 brought it with me.

17 Q. (Mr. Rosenblatt) Okay. Do you
18 have any publications? A list of
19 publications somewhere? Have you
20 published anything?

21 A. Well, I don't have a list
22 because I haven't published anything.

23 Q. Okay. How about a listing --

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1 for example, you talked about a
2 presentation you made at the most recent
3 stockholders' meeting.

4 A. Right.

5 Q. Do you have a list of
6 presentations such as that, and other
7 presentations to groups on tobacco issues?

8 A. No, I do not have a list of
9 presentations.

10 Q. Okay. Number two. What -- I'm
11 sure this is a short list. What tobacco
12 trials have you ever testified in?

13 A. Minnesota, AG case.

14 Q. You testified in Minnesota
15 before a jury?

16 A. Yes.

17 Q. Okay. Any other cases where you
18 testified either before a judge or jury?

19 A. No, that's the only one.

20 Q. Okay. And I assume you gave a
21 deposition in the case?

22 A. Yes, I did.

23 Q. And obviously you've given

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1 depositions in Engle?

2 A. Yes, I have.

3 Q. --- other cases where you've
4 given depositions?

5 A. You're getting tripped out a
6 little. What was the -- just the very
7 last question?

8 Q. Okay. Are there -- can you name
9 other cases where you have given
10 depositions?

11 A. I gave a deposition to the
12 Federal Trade Commission on the
13 administrative case they were bringing on
14 Joe Camel. I gave a deposition in the
15 Ironworker's case. And then obviously
16 Engle. That's the only ones I can
17 remember. I think that's it.

18 Q. Okay. Look at number three
19 under documents to be produced. Have you
20 authored or co-authored any publications?

21 A. No.

22 Q. So in other words you're telling
23 me that looking at number three under

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1 documents to be produced, you would have
2 nothing from a document standpoint to
3 comply with that?

4 A. That's what I'm saying. I
5 haven't authored or co-authored any
6 publications which address your company,
7 financial matters within the company, or
8 any of the areas in which you expect to
9 testify in this case.

10 Q. Number four. All documents,
11 exhibits, facts and materials representing
12 or containing facts upon which you have
13 relied or may rely in giving testimony in
14 this case, or which may be used to
15 present, illustrate or explain your
16 testimony in this case. What do you have
17 that falls in that category?

18 MR. JOHNSON: We will be
19 turning over to you, consistent with the
20 procedure we've used throughout the trial,
21 any exhibits that we will use with Mr.
22 Schindler and his testimony. I think
23 that's responsive to that specification.

1 Q. (Mr. Rosenblatt) Number five.
2 Any reports, studies, data compilations,
3 databases, or other information of a
4 statistical nature upon which you have
5 relied or may rely in preparing or
6 presenting your testimony in this case.
7 Do you have anything in that category?

8 A. No.

9 Q. How about number six? Do you
10 have anything in -- I don't really see a
11 need to read every word.

12 MR. JOHNSON: He's reading
13 it, Stan.

14 THE WITNESS: Yeah, I just
15 need ---

16 MR. JOHNSON: --- He just
17 needs a minute to read it.

18 THE WITNESS: Yeah.

19 MR. ROSENBLATT: Take your
20 time. We're on the same number. Number
21 six.

22 THE WITNESS: Right.

23 (Witness examines document)

1 MR. ROSENBLATT: You don't
2 have anything that would fit that
3 category?

4 MR. JOHNSON: Well, we've
5 got his deposition.

6 THE WITNESS: I'm sorry.
7 We've got ---

8 MR. JOHNSON: --- We've got
9 his deposition.

10 THE WITNESS: Yeah, we've
11 got the deposition you took from me three
12 years ago. I'm sorry. We've got that
13 one. That's it.

14 Q. (Mr. Rosenblatt) You have not
15 brought any other depositions?

16 MR. JOHNSON: No.

17 Q. (Mr. Rosenblatt) How about
18 number seven? Any and all reports you've
19 prepared or furnished in this case. Do
20 you have anything in that regard?

21 A. No.

22 Q. Number eight, any and all
23 reports which were furnished to you by

1 other experts in this case.

2 A. No.

3 Q. Such as economists or your
4 fellow CEO's. You have not received any
5 reports or information from them covering
6 their projected testimony?

7 A. No, I have not received any
8 information like that from economists or
9 my fellow CEO's.

10 Q. How about number nine? Do you
11 have anything that would comply with that
12 category?

13 (Witness examines document)

14 A. No. I don't have anything
15 there.

16 Q. How about number ten?

17 A. Don't have that.

18 Q. But you could get it, obviously.

19 In other words, if you wanted -- who --
20 if you wanted an answer today to this
21 question, how much has Reynolds paid its
22 lawyers through today, to defend the Engle
23 litigation, the total sum, who would you

1 call to get that information?

2 MR. JOHNSON: I'm going to
3 object to the question generally. He's
4 already said he doesn't have any billing
5 file.

6 MR. ROSENBLATT: Who would
7 you call to get that information, if you
8 wanted an answer to that question?

9 THE WITNESS: Chuck Blixt.

10 MR. ROSENBLATT: And his
11 title is what again?

12 THE WITNESS: He's
13 executive vice president and general
14 counsel.

15 Q. (Mr. Rosenblatt) Okay. Number
16 eleven, any and all notes, writing,
17 memoranda, et cetera, which you have
18 prepared in this case.

19 A. Nothing there.

20 Q. Number twelve, any and all notes
21 taken of, prepared and analysis performed
22 by you or your agents which were prepared
23 for this case?

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1 A. Nothing.

2 Q. Number thirteen, any and all
3 publications or source materials which you
4 have consulted and or relied upon in this
5 case?

6 A. Nothing.

7 Q. Number fourteen, all written
8 communications between you and counsel who
9 are defendants in this matter.

10 A. Nothing.

11 Q. Number fifteen. All written
12 communications between you and any other
13 person other than counsel regarding this
14 matter, including but not limited to, your
15 opinions in this matter.

16 A. Nothing.

17 Q. Number sixteen, all documents
18 upon which you relied in formulating the
19 methodology by which you conducted any
20 analysis, tests or evaluation in
21 connection with this matter?

22 A. Nothing.

23 Q. And seventeen, copies of all

1 speeches, presentations, articles, or
2 other written memoranda, publications, and
3 or videotapes that address in any way
4 tobacco litigation, including the Engle
5 class action trial.

6 A. The only thing I can think of
7 there is the speech that I gave at the
8 shareholders' meeting.

9 Q. Mr. Schindler, do you as the
10 chief executive officer of RJ Reynolds
11 Tobacco Company and RJ Reynolds Tobacco
12 Holdings, do you apologize to the American
13 people and the residents of Florida for
14 the fraud and misrepresentations committed
15 by your company over the past several
16 decades?

17 MR. JOHNSON: Object to the
18 form of the question.

19 THE WITNESS: I believe I
20 work for a company that operates with an
21 extraordinarily high level of
22 responsibility and ethics, and I don't
23 have any need or -- to apologize for

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1 something that I don't believe has
2 happened. This is a very fine company.
3 I'm proud to be part of it, and I can't
4 imagine what I'd be apologizing for, given
5 the fine people I work with.

6 Q. (Mr. Rosenblatt) So in essence,
7 there's nothing to apologize for in your
8 view?

9 MR. JOHNSON: Object to the
10 form.

11 MR. ROSENBLATT: Is that
12 accurate?

13 THE WITNESS: Yeah. Based
14 on my experience with this company, and
15 the responsible and ethical manner in
16 which it has operated in my personal
17 experience, I can't think of what I would
18 apologize for.

19 MR. ROSENBLATT: That's it.

20 MR. JOHNSON: All right.

21 MR. ROSENBLATT: That
22 should be a happy surprise to everybody.

23 WHEREUPON, at 1:45 o'clock p.m. the

1 deposition was adjourned.

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CERTIFICATION

I, Cathy Chaplin, CVR and Notary Public in and for the County of Guilford, State of North Carolina at Large, do hereby certify:

That there appeared before me the foregoing witness at the time and place herein aforementioned;

That the said witness was sworn by me to state the truth, the whole truth, and nothing but the truth, in said cause;

That the testimony was taken before me and recorded by Stenomask, thereafter reduced to typewriting under my direct supervision, and the foregoing consecutively numbered pages are a complete and accurate record of all the testimony given by said witness;

That the undersigned is not of kin, nor in any wise associated with any of the parties to said cause of action, nor their counsel, and that I am not interested in the event(s) thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 12th day of May, 2000.

CHAPLIN & ASSOCIATES

P. O. Box 407
Kernersville, NC 27285

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WITNESS CERTIFICATION

I, **ANDREW J. SCHINDLER**, do hereby certify,

That I have read and examined the contents of the foregoing pages of record of testimony as given by me at the times and place herein aforementioned;

And that to the best of my knowledge and belief, the foregoing pages are a complete and accurate record of all the testimony given by me at said time, except as noted on the attached here (Addendum A).

I have _____, have not _____
made changes/corrections _____

to be attached.

I, _____, Notary Public for
the County of _____, State of _____,
do hereby certify:

That the herein-above named personally appeared before me
this the _____ day of _____, 20____;

And that I personally witnessed the execution of this
document for the intents and purposes herein above
described.

NOTARY PUBLIC

My Commission Expires:

(SEAL)

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Upon the reading and examination of my deposition testimony as herein transcribed, I note the following changes and/or corrections with accompanying reason(s) for said change/correction:

Page	Line	Is Amended to Read
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